

**SUGGESTED REPLY**



This is in response to your letter of July 9, 1970 concerning a contract matter involving confidential agencies in the U. S. Government.

I have just received a report from the agency which managed this procurement action for its own needs and those of other agencies and am informed that it was based on an extensive review of their relations with your firm on this matter.

It is the managing agency's judgment that the procedures followed in handling the contract award were competitive and completely fair, and that the award of the contract was in the best interests of the U. S. Government based on equipment performance, cost considerations, and delivery requirements.

I was given a memorandum summarizing the facts relating to this judgment, and I am forwarding it for your information.

DECLASS REVIEW by NGA

Your firm apparently has done considerable business with the managing agency and your record of meeting their needs caused them to look to you initially in the case of this particular contract. I have been assured that the fact that your firm was unsuccessful in this particular competition does not mean that it shall be looked upon any less favorably as a source for other equipment contracts.

I am sorry that your firm was not successful in this particular contract, but I do hope that my inquiry on your behalf and the resulting information proves helpful.

29 July 1970

MEMORANDUM

SUBJECT: [ ] Inquiry

1. In June 1968, we awarded a classified contract to the [ ] to design and fabricate a prototype light table. This was a fixed price contract for [ ] awarded on a sole source basis. The prototype was to be delivered on 1 November 1968.

2. The [ ] delivered the prototype in February 1969. During test and evaluation by our engineers several major deficiencies were noted.

3. In January 1969 we became aware that the [ ] was developing a competitive prototype light table. This light table was offered and delivered to the Government in May 1969 for test and evaluation. The [ ] table also had major deficiencies but included some new features superior to those on the [ ] table.

4. As a result of the test and evaluation of the [ ] prototype light tables, we prepared new development objectives, and contracts were awarded to the [ ] to design and fabricate second generation prototype light tables. The contracts were awarded in late October and early November 1969 with delivery to be in late February 1970.

5. The second generation light tables from the [ ] were delivered to us in March 1970 and subjected to engineering testing and operational evaluations. The testing was completed in early April 1970 at which time we concluded that both tables continued to display deficiencies but that the [ ] table evidenced fewer and technically less complex deficiencies.

6. Our representatives met with [ ] representatives separately in April 1970 to discuss in detail the engineering tests and operational evaluations of their respective tables. The two tables were returned to the respective companies for modification and rework in accordance with written agreements.

7. After a review of all aspects of the tests, evaluations, unit costs, and availability of funds, we decided in May 1970 to procure the [ ] table to meet our needs. The basis for this decision was the greater suitability of the [ ] table to meet our tasks, [ ] lower costs, and a judgment that [ ] could meet production requirements.

8. Both [ ] were requested in May 1970 to bid on quantity production of several model variants of their light tables. The request to [ ] was based on the needs of other agencies in the community and for contingency purposes in the event [ ] could not fulfill all of our needs. The bid received from [ ] was significantly lower than the [ ] bid.

9. In June 1970 a contract was awarded to [ ] for the production of light tables. The contract includes light tables for other agencies in the Government who decided to join us in this procurement action. This joint funding saves procurement costs to the U.S. Government.

10. The salient points concerning this competition in which the [ ] was an unsuccessful bidder are:

a. Both [ ] used some of their own funds for prototype development. Our contributions to each company for that purpose were about the same, and did not favor one company over the other.

b. Neither company was given information by us of its competitor's performance - each was told of the test and evaluation results of their table only.

c. Both [ ] were given equal opportunity to correct technical deficiencies in their light tables.

d. Both companies were asked to provide cost estimates on similar quantities. The [ ] cost estimates were 25 percent higher than the [ ] estimates. Following the conclusion of tests and evaluations, both companies were asked to bid on specific configurations and quantities based upon product suitability and projected needs. Again, when compared to the [ ] bids, the [ ] bids were higher.

e. In the award of the production contract, price was not the major consideration by us although it was an important one. Performance of the equipment was the major factor. On both counts the [ ] table was superior to the [ ] table.

EXCERPT FROM JOURNAL  
OFFICE OF LEGISLATIVE COUNSEL

Tuesday - 4 August 1970

9. (Confidential - LLM) Met with [ ] Administrative Assistant to Senator Harry F. Byrd, Jr. (D., Va.), and briefed him on the Agency position with respect to the contract complaint of the [ ] [ ] He was very complimentary of the suggested reply (prepared by NPIC) and said it completely answered their queries from the standpoint of the classified agencies. At the outset [ ] mildly chided me on the possibility that the award to a California firm had something to do with the location of the summer White House and that he had information that the successful firm had copied the brochure of the [ ] before they produced a light table, but I was able to negate these contentions from the Agency's standpoint. [ ] was somewhat surprised that the Agency acted as managing agent for the procurement as he was under the impression that the light tables were primarily for DIA.

EXCERPT FROM JOURNAL  
OFFICE OF LEGISLATIVE COUNSEL

Friday - 31 July 1970

6. (Confidential - LLM) Called [ ] DIA Comptroller, to advise him of our plans for contacting Senator Harry Byrd's office on the [ ] complaint concerning the awarding of a contract for light tables. I emphasized that while we would be reporting on our actions as managing agent for the procurement, we would be limiting our comments on suitability of the tables to our needs and not those of DIA's or others. [ ] found no problem with this approach, remarking that DIA had only a small part of the buy. In response to my question, he did not know if DIA had yet formally replied to Senator Byrd's referral of 10 July. [ ] will be looking forward to receiving copies of the papers we will be using with Senator Byrd's office as he said that he knows [ ] is interested.

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Monday - 3 August 1970

4. (Confidential - LLM) In keeping with our conversation of Friday, attempted to see [ ] Administrative Assistant to Senator Harry F. Byrd, Jr. (D., Va.), concerning the [ ] contract complaint. [ ] was unavailable as he was on the floor with the Senator and he will call when he can see me on the matter.

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EXCERPT FROM JOURNAL  
OFFICE OF LEGISLATIVE COUNSEL

Thursday - 23 July 1970

9. (Confidential - JGO) Received a call from [REDACTED] STAT  
who advised that Air Force has received a query from Senator Strom  
Thurmond (R., S.C.) concerning the [REDACTED] complaint about STAT  
certain contract procedures re PI light tables. Air Force is in contact with  
DIA. (See Journal item of 20 July 1970.)